

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 22 OF 2007

Mr. Vikas Gajanan Mhatre ... Petitioner
V/s.
The State of Maharashtra ... Respondents

Mr. S. V. Kotwal for the petitioner.

Mr. D. S. Mhaispurkar, APP for the State.

**CORAM : SMT. RANJANA DESAI &
ANOO V. MOHTA, JJ.**

DATED : 17th January, 2007

P.C.

The petitioner has prayed that he may be granted permission to attend the meeting dated 09/10/2006 of Kalyan Dombivali Municipal Corporation, Kalyan.

2. We have heard the learned counsel appearing for the applicant. Mr. Kotwal, states that earlier permission was granted to the petitioner by the learned Magistrate to attend the corporation meeting. However, the petitioner could not attend the said meeting though he was taken to attend it because the meeting was postponed. The learned counsel contended that if the petitioner does not attend the meeting

there is a fear that he may be disqualified and therefore, he may be permitted to attend the meeting.

3. The learned APP Mr. Mhaispurkar has taken us through the affidavit filed by Mr. Vijaykumar Magar, Assistant Commissioner of Police, Kalyan Division, Kalyan opposing the petitioner's prayer. In the affidavit various offences which are registered against the petitioner are stated. It appears that the petitioner is arrested in C. R. No. I-209 of 2006 registered for the offences under Section 307 & 120(b) of IPC as well as certain offences under the MCOC Act. A fear is expressed in the affidavit that if the petitioner is allowed to attend the meeting there may be danger to the lives of various corporators as well as political leaders. In view of the affidavit in our opinion, prayer made by the petitioner cannot be granted. Mr. Kotwal has drawn our attention to Section 11 (b) of the Bombay Provincial Municipal Corporations Act. He says that if a corporator does not attend the meeting during three successful months, he ceases to hold the office as a corporator. He submitted that therefore, it is possible that the petitioner may be disqualified and, therefore, permission to attend the meeting may be

granted.

4. We have perused the said provision. Bare reading of this provision makes it clear that a discretion vests in the Corporation to condone the absence if the corporator is prevented from attending the meeting because of temporary illness or other causes to be approved by the Corporation. If the petitioner is in jail in connection with a criminal case, he can persuade the Corporation to hold that he was prevented from attending the meeting on account of a genuine reason. Hence this fear expressed by Mr. Kotwal appears to be misplaced. However, we make it clear that on this aspect we have not expressed any final opinion. Needless to say that in future if the petitioner makes out a genuine case his application will be considered independently by the court.

5. The petition is disposed of in the aforestated terms.

[SMT.RANJANA DESAI, J.]

[ANOO V. MOHTA, J.]